

Introduction

The Land for Maine's Future Program was created in 1987 to fund the acquisition of natural conservation lands, protect public access to outdoor recreation opportunities and to protect prime farmlands. The program holds no land or interest in land itself. These interests are held by other state agencies, land trusts and municipalities. The following material is excerpted from the Land for Maine's Future Proposal Workbook. The complete workbook is available on the web at

<http://www.state.me.us/spo/lmf>.

LMF Needs Assessment

The Board conducted its original needs assessment in 1988, which consisted of public participation/outreach and the establishment of priority land categories, including the nine legislatively mandated land types found in the LMF statute. This list created the foundation of the Land for Maine's Future Program's detailed land classification types:

- Recreational Lands
- Water Access Lands
- Lands Supporting Vital Ecological or Conservation Functions and Values
- Rare, Threatened, or Endangered Natural Communities, Plants, or Wildlife Habitat
- Areas of Scenic Interest and Prime Physical Features
- Farmland and Open Space

In 1996, Governor King established by Executive Order the Land Acquisition Priorities Advisory Committee (LAPAC). This committee performed a new needs assessment and its recommendations form the basis of LMF's current priorities (see below). LAPAC's final report is available from the Maine State Planning Office. Experience in the first two funding rounds under the 1999 bond issue has demonstrated the continued validity and value of the LAPAC priorities.

High Priority Lands for LMF Conservation Funding

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|-------------------------------------|--------------------------------------|
| • Southern Maine Conservation Lands | • Northern Forest Conservation Lands |
| • Ecological Reserves | • Trail Systems |
| • River (Corridor) Systems | • Coastal Islands |
| • Undeveloped Coastline | • Significant Mountains |

The core statutory criteria are for land conservation are:

Determination of state significance. In determining whether a proposed acquisition must be funded, in full or in part, by the Land for Maine's Future Fund or the Public Access to Maine Waters Fund, the board shall consider whether the site is of state significance and:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

B. Is habitat for plant or animal species or natural communities considered rare, threatened or endangered in the State; or

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section.

5 MRSA sec. 6207, subsec. 2

While the 1999 Bond issue has broadened the scope of the LMF Board's acquisition authority to include projects of local and regional significance, there is no authority to fund purchases intended for use in TDR program at any geographic scale.

LMF Policy Overview

The Land for Maine's Future Board follows well-established policies and guidelines as it conducts its business. The following is a brief summary of the most important of these. Please contact LMF staff with any questions.

Primary Purpose of the Program - The primary purpose of the Land for Maine's Future Program is to acquire undeveloped land in its natural state.

Willing sellers only - A Board policy since 1987. The Board requires signed consent from the owner(s) of land being proposed for consideration in advance of any Board discussion of a property.

Purchase Price Determined by Appraised Value - Board policy is to determine fair market value of a property or an easement through a qualified appraisal and to base acquisition price on appraised value.

Municipal and County Approval - LMF statute requires approval of the elected municipal officials when more than 1% of a municipality's state valuation is considered for acquisition. Board policy is to seek municipal input on all acquisitions. Within unorganized territories, approval of the county commissioners is required if

the land value of a proposed project constitutes more than 1% of the state valuation within that county.

One Third Match - A proposal is expected to have a match greater than or equal to 1/3 of the total eligible project costs. This means that for every \$2 of LMF funds, there must be \$1 of match funds. (Descriptions of match guidelines are in each of the following sections of this workbook under Policy, Guidelines and Threshold Criteria.)

No Fee Acquisition of lands for Timber Production Lands - By statute, LMF is prohibited from acquiring land for which the primary use value will continue to be commercially harvested or harvestable forest land. This does not prohibit the acquisition of conservation easements in which the rights to harvest timber are retained by the land owner.

Addressing Land and Easement Management Costs - The Board now requires all applicants to address stewardship and management costs as part of an application. New legislation requires that LMF applicants provide preliminary estimates of the management costs associated with the project over the first 10 years of ownership. As a separate matter, non-LMF funds of up to 20 % of the appraised value of the acquired land put into the stewardship account of the state agency or cooperating entity holding title to the land may be counted as match to the project.

Providing Public Access - Public access is a core purpose of the Land for Maine's Future Program. All lands acquired through the LMF are open to the public. Exceptions may include farms, where access may not be feasible or desirable, and places where species management takes precedence or public safety may be at risk. Up to 5% of the appraised value of any project can be made available to develop public access facilities, including trails, boat launching sites, parking, camping and picnicking facilities. When development rights on a farm are purchased, up to 5% can be available for business plan development.

Hunting, Fishing & Trapping – Pursuant to the terms of the 1999 bond, hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local and federal laws and regulations.

Project Ownership - As part of the proposal, the applicant must specify how the project's ownership will be held. With the \$50 Million Bond, new options for local ownership are available for local and regional projects. Projects of statewide significance still require an agency of the state to hold the interest acquired with LMF funds.

Due Diligence Required on All LMF Projects - Once the Board selects finalists, this sets in motion a series of process steps that must be completed to the satisfaction of the Board. In addition to these steps, the Board may place specific conditions which must be addressed before Land for Maine's Future funds are made available. Committees of the Board oversee this process, make recommendations to the Board, and determine if new information requires additional full Board review.

- Appraisal to determine fair market value. (All appraisals must be reviewed and approved by the Appraisal Review Committee of the Board and its recommendation must be approved by the full Board. The full Board may authorize the Appraisal Review Committee to expend reasonable funds if, in its opinion, supplemental appraisal information is required in order for the Committee to proceed to a recommendation regarding appraised value.)
- Determine legal interest to be held by the State.
- Confirm local support.
- Elected officials approve (organized townships) if more than 1% of state valuation or County Commissioners approve (unorganized townships) if more than 1% of county valuation.
- Publish public notice of intent to purchase and schedule Board vote, for the purpose of taking public comment.
- Draft Purchase and Sales Contract with all appurtenant conditions. If acquisition involves easement purchase, easement is drafted and finalized.
- Complete title work.
- Conduct environmental hazard assessment (Level I).
- Complete a boundary survey.
- Close on project.
- Typically after closing, ecological and archeological surveys are undertaken to assess any features of the property that may require special management.

Answers to Commonly Asked Questions

Q. What types of land can be acquired through the Land for Maine's Future Program?

A. Lands and interests in lands for conservation, water access, outdoor recreation, wildlife and fish habitat and farmland

Q. Who can be a "cooperating entity"?

- A. Private nonprofit organizations, private foundations, individuals, municipal conservation commissions, local governments, and federal agencies are considered cooperating entities. In addition, the Land for Maine's Future Board may designate other groups to assist the State in the acquisition and management of public lands. In cases of regionally or locally significant projects, the Board may also designate a cooperating entity as "holder of title" for a given acquisition.

Q. Who will own the land or conservation easements acquired by the Program?

- A. Title for projects of state significance as determined by the Board will be held by the appropriate state agency. In the case of projects of regional and local significance, an approved cooperating entity may hold title providing that entity can demonstrate to the Board their ability to manage the land for the purpose for which it was acquired.

Q. Who will manage the land acquired by the Program?

- A. Management responsibilities for the acquired lands and interests in lands will be the responsibility of the State agency or cooperating entity holding title. Management of lands held by the State may be accomplished through a partnership with a cooperating entity through a management agreement. When a cooperating entity holds the land or interest in land it will execute a project agreement with the sponsoring state agency that contractually binds the terms of the project's management. This agreement is recorded with the deed or easement. A model of the Project Agreement is included in Appendix H. These actions require the recommendation of the agency's commissioner, and approval of the Land for Maine's Future Board.

Q. What are "matching funds" and what guidelines apply?

- A. All projects are expected to have a match greater than or equal to 1/3 of the total eligible project costs. This means that for every \$2 of LMF funds there must be \$1 of match funds. At least 70% of the match must be in the form of land, cash, or other tangible assets. The value of lands or interest in lands acquired within 2 years of the date of project application may be used as tangible match when the property interests have a direct relationship to the project. No more than 30% of the match can be the value of services customarily associated with land or interest in land acquisitions (appraisal, survey, title work, legal work, ecological and archeological inventory) defined by the LMF statute as "intangible" match. Match is discussed further under each proposal type.

Q. When is municipal or county approval of a land acquisition required?

- A. Approval by the elected municipal officials is required when more than 1% of a municipality's state valuation is considered for acquisition by the Land for

Maine's Future Program. Approval by the county commissioners is required if land proposed to be acquired lies within unorganized territory and constitutes more than 1% of the state valuation within that county.

Q. What interests in land may be purchased by the Program?

- A. The LMF can acquire a full range of interests in land including:
- fee simple acquisition;
 - less-than-fee simple interests including, but not limited to, conservation easements.

Q. Can the LMF fund be used to fund capital improvements?

- A. The LMF Fund can only be used to fund minor capital improvements on acquired lands to improve public access, as long as these improvements do not exceed 5% of appraised value of the acquired property and as long as these improvements do not compromise the original intent for which the property was purchased. In the case of the purchase of development rights on farms, up to 5% of the appraised value may be used to develop a business plan and capital improvement for the farm.

Q. What does the law exclude from consideration?

- A. The law specifically excludes using bond funds to acquire any of the following:
- buildings or other structures unrelated to the intended use of the property,
 - land for facilities or organized recreational activities; (e.g. ballparks, tennis courts, or playgrounds).
 - capital improvements on any publicly owned facilities; and
 - land of which the primary use value will be as commercially harvested or harvestable forest land.

Q. What types of land are identified by the law as eligible for potential acquisition?

- A. The law identifies eligible lands as those that contain:
- recreation lands;
 - prime physical features of the Maine landscape;
 - areas of special scenic beauty;
 - farmland or open space;
 - undeveloped shorelines;
 - wetlands;
 - fragile mountain areas;
 - habitat for plant or animal species or natural communities considered rare, threatened, or endangered in the State;
 - public access to recreation opportunities or those natural resources identified above; and
 - lands with other conservation, wilderness or recreation values.

Potential applicants are strongly encouraged to review the LAPAC report for further discussion on conservation priorities among these resources. The report is available from the LMF staff and is on the LMF website.

Q. What is a Farmland Protection Project?

A. An LMF Farmland Protection Project helps an existing farmer keep his or her farmland available for agricultural production. To do this, the Land for Maine's Future Program purchases the farm property's development rights and simultaneously extinguishes those rights through an agricultural conservation easement. The easement is a deed restriction that is held by the Department, a town or a local land trust and protects all current and future agricultural uses of the land by prohibiting all conflicting, non-agricultural uses (i.e. subdivision, housing development, etc.). Agricultural Conservation Easements allow farmers to retain all other ownership rights; they can sell or continue to farm and they can diversify their agricultural enterprise and operation, they just can't grow houses. If they do sell, their land will be valued as farmland, which often makes it much more affordable for the next generation of farmers.

Q. Who can propose land for acquisition by the Program?

A. Anyone can nominate or propose land for acquisition by LMF Program with the sponsorship of a suitable state agency as long as the threshold criteria, the criteria of the sponsoring state agency, and basic information requirements are met. This must include full knowledge and agreement of the owner of the proposed property that his/her property is being proposed to the LMF Program.

Q. When can proposals be submitted?

A. Whenever the Board issues a call for proposals. Contact the Program Director for the opening and closing dates of the current proposal period. Proposal inquiries can be submitted any time during the year for a staff review and feedback (see Inquiry Forms in Appendices A and B). Anyone who has submitted an inquiry during the year will be notified when full proposals will be accepted.

Q. How will the proposed properties be scored?

A. After the information in a proposal is reviewed by the Program staff, the Board's Scoring Committee will review and assign scores and the Nominations Committee will identify issues/important proposal components and bring the top scoring projects in each land category to the full Board for detailed review. See Scoring System in Sections II and IV for the detailed scoring procedures.

Q. Who will appraise the lands proposed for acquisition?

- A. The LMF Program will be responsible for appraising land proposed for acquisition. If an appraisal has been conducted by or is available to a proposer it should be included as part of the proposal process. The Board may decide to accept an existing appraisal in lieu of a Board appraisal for the purpose of establishing a property's fair market value. Board appraisals will be undertaken only for properties that have been selected as finalists by the Board. If an applicant provides an appraisal to the Board and it is accepted, he/she may apply the documented cost of the appraisal as match. Any such appraisal must be an arm's length appraisal and must conform to the standards outlined in Appendices E & F.

Q. Will LMF support projects when the landowner wants a price higher than the appraised value?

- A. The LMF Board will not typically participate in purchases which exceed fair market value as established by independent appraisal. This policy applies even where the extra funds are drawn from other sources. Such sales can create inflationary pressures and make future conservation projects even more expensive. In rare cases, the Board will consider exceptions to this policy. Applicants should consult program staff.

Q. Who will negotiate for the Program?

- A. The Land for Maine's Future Board will designate a lead negotiator for each property. The negotiator may be a representative of the state agency that will hold title or of a designated cooperating entity.

Q. How will a proposer know the status of his/her proposal?

- A. All proposers will be notified by mail as to the status of their proposals when the scoring and evaluation process is complete. If an applicant submits an Inquiry Form, he/she will receive a letter that invites the submission of a full proposal. The letter may also provide guidance on whether the proposal is aligned with the Program's priorities. An applicant may call the Program staff at any time and inquire about the status of his/her proposal.

Q. What considerations does the Board want to see reflected in conservation easements proposed for consideration?

- A. The Board may fund acquisition of conservation easements on parcels of land to protect key public values. Any easement proposal considered by the Board is expected to address the following elements:
1. Conservation purpose of the easement and description of concerned natural resources,
 2. Restrictions on development and subdivision (building, mining, road construction, etc.),
 3. Provisions for public access (pedestrian, water access, vehicle access, etc.),

4. Accommodations for public use/recreation,
5. Private uses to be maintained/continued, and
6. See also Guidance for Working Forest Easements
(<http://www.state.me.us/spo/lmf>)